

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NECA-IBEW PENSION TRUST FUND and DENNIS  
MONTGOMERY, on behalf of themselves and all other  
similarly situated,

Plaintiffs,

-against-

10 Civ. 440 (LAK) (HBP)

BANK OF AMERICA CORPORATION, *et al.*,

Defendants.  
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**ORDER**

LEWIS A. KAPLAN, *District Judge.*

Magistrate Judge Henry Pitman issued a thorough opinion and order denying plaintiffs' motion for leave to file a second amended complaint. Plaintiffs appeal and object on several grounds and contend that this Court must review *de novo*. The Second Circuit, however, previously has treated motions for leave to amend as a non-dispositive motions, *Kilcullen v. New York State Dep't of Transp.*, 55 F. App'x 583, 584 (2d Cir. 2003); *Hodge v. Perilli*, 06 Civ. 2480 (PAC) (MHD), 2010 WL 3932368, at \*3 (S.D.N.Y. Sept. 30, 2010), which are subject to review for errors of law or clear errors of fact, *Kormendi v. Computer Assocs. Int'l, Inc.*, No. 02 Civ. 2996 (LAK), 2004 WL 121792, at \*1 (S.D.N.Y. Jan. 27, 2004).

Regardless of which standard applies, the Court agrees with Magistrate Judge Pitman's order and finds that plaintiffs' objections are without merit.

Accordingly, the order appealed from [DI 77] is affirmed.

SO ORDERED.

Dated: December 3, 2013



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Lewis A. Kaplan  
United States District Judge

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